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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Philip E. Holmes

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10/02/2006

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EXAMINER

DIVECHA, KAMAL B

ART UNIT

PAPER NUMBER

2151

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/868,245

Applicant(s)

HOLMES, PHILIP E.

Examiner

KAMAL B. DIVECHA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-88 is/are pending in the application.
- 4a) Of the above claim(s) 1-50 and 84 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 51-83, 85-88 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Response to Arguments**

Claims 51-84, 85-88 are pending in this application.

Applicant's arguments with respect to claims 51-84, 85-88 have been considered but are moot in view of the new ground(s) of rejection.

**DETAILED ACTION**

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 51-84 and 85-88 are rejected under 35 U.S.C. 102(e) as anticipated by Ginzboorg et al. (hereinafter Ginzboorg, US 6,240, 091 B1).

As per claim 51, Ginzboorg discloses a method of generating charging data (fig. 7b) relating to the use made of connections over a permanently activated communications network link which connections involve at least one client/server relationship and which are arranged to enable information to be passed between a computer system operated by a user and a computer system arranged to provide the user with content over said permanently activated communications network link (Abstract, fig. 1-3B), the method comprising:

a) monitoring changes in the state of at least one logical connection between the computer system operated by the user and the computer system arranged to provide the user with content, said at least one logical connection being an internet socket defined by

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IP address and a transport protocol port number, and wherein use of the at least one logical connection provides said content to said user (col. 8 L5-56, fig. 5, col. 10 L5-30, col. 18 L10-14);

b) creating data whenever the use of the permanently activated communications network link causes at least one of said monitored logical connections being the internet socket defined by the IP address and the transport protocol port number to change its state by being generated or terminated (col. 8 L5-56, fig. 5, col. 11 L15-59);

c) recording said data created in response to the changes detected by the monitoring (col. 8 L5-56, col. 11 L15-59); and

d) generating charging data on the basis of the recorded data (col. 11 L15 to col. 12 L29 and fig. 7b).

As per claim 52, Ginzboorg discloses the process wherein the permanently activated communications network link is an xDSL digital subscriber line (col. 2 L24-40).

As per claim 53, Ginzboorg discloses the process wherein the permanently activated communications network link is an asymmetric digital subscriber line (col. 1 L35 to col. 2 L40).

As per claim 54, Ginzboorg discloses a method of generating charging data (fig. 7b) relating to the use made of connections over a permanently activated communications network link which connections involve at least one client/server relationship and which are arranged to enable information to be passed between a computer system operated by a user and a computer system arranged to provide the user with content over said permanently activated communications network link, the method comprising:

a) monitoring changes in the state of at least one logical connection between the computer system operated by the user and the computer system arranged to provide the user with content, said at least one logical connection being defined by at least one client network layer address, a client transport layer address, a server network layer address and a server transport layer address, and wherein use of the at least one logical connection provides said content to said user (col. 8 L5-56, fig. 5, col. 10 L5-30, col. 17 L65 to col. 18 L13);

b) creating data when the use of the permanently activated communications network link causes at least one of said monitored logical connections to change its state by being generated or terminated (col. 8 L5-56, fig. 5, col. 11 L15-59);

c) recording said data created in response to at least one event detected by the monitoring (col. 8 L5-56, col. 11 L15-59); and

d) generating charging data on the basis of the recorded data; wherein the use of said logical connection comprises the use of a plurality of socket connections, and wherein in said step of recording data a record of number of all socket connections established and terminated is determined (col. 11 L15 to col. 12 L29 and fig. 7b, col. 17 L19-25 col. 18 L3-14, col. 21 L35-40: note that every invocation of the service request invokes the socket connection for fulfilling the request).

As per claim 55, Ginzboorg discloses the process wherein said plurality of socket connections are at least partially contemporaneous and relate to same client/server relationship (fig. 1-3b: plurality of service requests creates plurality of socket connections with respect to same system, i.e. same client/server relationship).

As per claim 56, Ginzboorg discloses the process wherein the information is passed via a computer system arranged to provide the user with access to the computer system arranged to provide content to the user, and wherein the computer system arranged to provide access to the user acts as a proxy client and a proxy server (fig. 1-fig. 3d).

As per claim 57, Ginzboorg discloses the process wherein the charging data are generated by the computer system arranged to provide the user with access (col. 11 L30 to col. 12 L30 and fig 3d: a billing server associated with the access server).

As per claim 58, Ginzboorg discloses the process wherein a monitored logical connection comprises at least one socket connection created between the computer system arranged to provide access to the user acting as proxy server and the computer system operated by the user acting as a client (fig 5 and col. 11 L30-39).

As per claim 64, Ginzboorg discloses the process wherein the recorded data comprises a record of a period of time relating to the changes (col. 14 L36 to col. 15 L39: i.e. it records the starting time when the start message is sent and ending time when the close message is sent).

As per claim 67, Ginzboorg discloses a method of generating charging data relating to the use made of connections over a permanently activated communications network link which connections involve at least one client/server relationship and which are arranged to enable information to be passed between a computer system operated by a user and a computer system arranged to provide the user with content over said permanently activated communications network link, the method comprising:

- a) monitoring changes in the state of at least one logical connection between the computer system operated by the user and the computer system arranged to provide the

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user with content, said at least one logical connection being defined by at least one client network layer address, a client transport layer address, a server network layer address and a server transport layer address, and wherein use of the at least one logical connection provides said content to said user (col. 8 L5-56, fig. 5, col. 10 L5-30, col. 17 L65 to col. 18 L13);

b) creating data when the use of the permanently activated communications network link causes at least one of said monitored logical connections to change its state by being generated or terminated (col. 8 L5-56, fig. 5, col. 11 L15-59);

c) recording said data created in response to at least one event detected by the monitoring (col. 8 L5-56, col. 11 L15-59); and

d) generating charging data on the basis of the recorded data; wherein at least one logical connection is selected from a group consisting of: a transmission control protocol socket connection, a user datagram protocol socket connection and an Internet protocol socket connection (i.e. charging data is generated based on a user connecting to the Internet using the Internet protocol connection, or user using the tcp connection, or user using the udp protocol col. 11 L15 to col. 12 L29: tcp connection, fig. 7b: charging data, col. 21 L35-40, col. 2 L60-67, col. 19 L64 to col. 20 L6: a connectionless network, UDP connection, col. 4 L8-15: Internet connection).

As per claim 68, Ginzboorg discloses a method of generating charging data relating to the use made of connections over a permanently activated communications network link which connections involve at least one client/server relationship and which are arranged to enable information to be passed between a computer system operated by a user and a computer system

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arranged to provide the user with content over said permanently activated communications network link, the method comprising:

a) monitoring changes in the state of at least one logical connection between the computer system operated by the user and the computer system arranged to provide the user with content, said at least one logical connection being defined by at least one client network layer address, a client transport layer address, a server network layer address and a server transport layer address, and wherein use of the at least one logical connection provides said content to said user (col. 8 L5-56, fig. 5, col. 10 L5-30, col. 17 L65 to col. 18 L13);

b) creating data when the use of the permanently activated communications network link causes at least one of said monitored logical connections to change its state by being generated or terminated (col. 8 L5-56, fig. 5, col. 11 L15-59);

c) recording said data created in response to at least one event detected by the monitoring (col. 8 L5-56, col. 11 L15-59); and

d) generating charging data on the basis of the recorded data; wherein the recorded data comprises a record of information extracted from at least one header associated with information passing between the computer system arranged to provide content to the user and the computer system operated by the user during a subsistence of the plurality of connections (col. 11 L15 to col. 12 L29, col. 14 L36 to col. 15 L39 and fig. 7b, col. 21 L35-40).

As per claim 69, Ginzboorg discloses the process wherein said at least one header is selected from a group consisting of: all transmission control protocol/Internet protocol network



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layer headers, all transmission control protocol/Internet protocol layer headers and all transmission control protocol/Internet protocol application layer headers (col. 11 L15 to col. 12 L29 and fig. 7b, col. 21 L35-40 and fig. 8 and col. 15 L35-40: IP packages includes this headers).

As per claims 59-63, 65-66, 70-84, 86-88, they do not teach or further define over the limitations in claims 51-58, 64, and 67-69. Therefore claims 59-63, 65-66, 70-84, 86-88 are rejected for the same reasons as set forth in claims 51-58, 64, 67-69.

#### **Additional References**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Internet Traffic Analysis Tool: Shorey et al., US 7,065,482 B2.
- b. Secure Network Proxy for connection entities: Green et al., US 6,003,084.

#### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

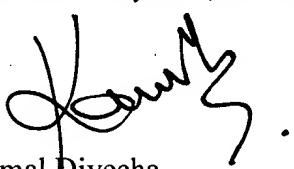
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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAMAL B. DIVECHA whose telephone number is 571-272-5863. The examiner can normally be reached on Increased Flex Work Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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September 26, 2006.



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